

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
3 CASE NO.: 1:14-CV-954

4 -----X
5 STUDENTS FOR FAIR ADMISSIONS, :
6 INC., :
7 :
8 Plaintiff, :
9 :
10 v. :
11 :
12 THE UNIVERSITY OF NORTH :
13 CAROLINA AT CHAPEL HILL, :
14 et al., :
15 :
16 Defendants. :
17 -----X

18 SUBJECT TO CONFIDENTIALITY AND PROTECTIVE ORDER

19 DEPOSITION OF EDWARD BLUM, INDIVIDUALLY
20 AND AS THE RULE 30(B)(6) DESIGNEE OF
21 STUDENTS FOR FAIR ADMISSIONS, INC.
22 (Taken by Defendants)
23 Charlotte, North Carolina
24 May 12, 2017

25 Reported by: Dayna H. Lowe
Court Reporter
Notary Public

1 BY MR. SCUDDER:

2 Q. Okay. So POFR, as I understand it from your
3 testimony, is a litigation facilitator or advocacy firm
4 or advocacy organization that funds litigation and
5 litigation advocacy related activities, and the one
6 organization, at least at the time that the tax document
7 was current, that you can recall the organization
8 funding was Students for Fair Admissions?

9 MR. STRAWBRIDGE: Object to the form of the
10 question.

11 BY MR. SCUDDER:

12 Q. Is that --

13 A. That's correct.

14 Q. That's correct? Okay. Who formed -- let's
15 move away from Project on Fair Representation and talk
16 about Students for Fair Admissions. When was it formed?

17 A. There was an informal group of individuals who
18 collaborated I would say in perhaps late 2013, and the
19 formal organization itself began in early 2014.

20 Q. When you say "formal," by incorporating and
21 becoming a formal organization in that way, or in some
22 other way?

23 A. No. I can't recall the exact dates of our
24 incorporation, but we started adding members to Students
25 for Fair Admissions in early 2014.

1 Q. Okay. Let's go to the very beginning of the
2 origination, that late 2013 time and that informal
3 collaboration of individuals as you described. Can you
4 tell me how that came to be that individuals came
5 together and were collaborating about formation of a new
6 organization?

7 MR. STRAWBRIDGE: And I just caution the
8 witness, in answering this question please do not
9 disclose the identities of anybody involved in the
10 creation of SFFA, except to the extent that they are
11 publicly known or have been disclosed in this
12 litigation.

13 A. When the Supreme Court granted cert in Fisher
14 One, a number of us started having conversations about
15 the benefit of a membership organization that -- whose
16 mission would be to oppose the use of race and ethnicity
17 in the admissions process.

18 BY MR. SCUDDER:

19 Q. And you put that in the summer of 2013?

20 A. Yeah, kind of summer-fall of 2013, somewhere
21 in through there.

22 Q. Okay. And can you describe the -- at that
23 point it sounded like a concept. Is that --

24 A. It was a concept.

25 Q. Okay. And the concept again was?

1 A. Was advocacy organizations have power when
2 they have members. The efforts to end race-based
3 classifications and preferences in public policy had no
4 membership organization. There were legal defense
5 foundations that litigated those issues, there were one
6 or two small think tanks that concentrated on those
7 issues, but no membership organization where people
8 could say I am a member of this group, much like I would
9 be a member of the Sierra Club or the ACLU, and I
10 joined, and that was not -- there was no organization
11 dedicated to that purpose.

12 Q. So the organization -- so Students for Fair
13 Admissions came together in that spirit of being a new
14 membership organization as you describe it?

15 A. Correct.

16 Q. And did you feel that was important?

17 A. Yes.

18 Q. And why?

19 A. Membership organizations have a source of
20 energy that think tanks and legal advocacy groups just
21 simply don't have. To grow a membership organization
22 dedicated to a purpose, whether it's the environment or,
23 I don't know, economic issues, civil rights issues, that
24 membership organization has, I believe, a more effective
25 role in advocating legal and public policy outcomes.

1 MR. STRAWBRIDGE: Object to the form of the
2 question. You're not calling for any specific action?

3 MR. SCUDDER: No. I can make clear, I'm not
4 intending with any question to breach the agreement that
5 we reached coming into today.

6 MR. STRAWBRIDGE: And I'm not suggesting that
7 you are, Counsel. I just want to make sure the witness
8 understands.

9 MR. SCUDDER: I understand.

10 A. We primarily rely on litigation to achieve our
11 mission.

12 BY MR. SCUDDER:

13 Q. Okay. And do you rely upon anything
14 secondarily to achieve your mission?

15 A. Advocacy. Yes, advocacy and -- yes. Just
16 call it advocacy.

17 Q. And when you say "advocacy," what do you mean
18 by advocacy?

19 A. Educate the American public about the unfair
20 and unconstitutional uses of race by educational
21 institutions in their admissions policies.

22 Q. And with respect to the advocacy prong of the
23 mission or that aspect of the mission, how do you go
24 about pursuing those educational efforts?

25 A. Speeches, debates, forums, one-on-one

1 outreach, media communications. I guess that's about
2 it.

3 Q. And who on behalf of the organization engages
4 in that set of activities that you just described?

5 A. I do, counsel, and occasionally a friend and
6 ally and a member.

7 Q. Okay. When you say "friend and ally,"
8 meaning -- I'm not asking you to identify the person --

9 A. Right.

10 Q. -- but a non-director?

11 A. Correct.

12 Q. And a non-member?

13 A. I think everyone we have asked to advocate on
14 behalf of Students for Fair Admissions in a public
15 setting has been a member, but I can't swear to that.

16 Q. Okay. Understood. The debates, speeches, and
17 the like that you have participated in, can you give me
18 a ballpark of how many times you've done that since the
19 formation of the organization?

20 A. So would you clarify your question? Does that
21 include media contact as well?

22 Q. Let's leave media contact out.

23 A. Okay.

24 Q. Okay? So speeches and the participation in
25 forum discussions. I don't know how else you'd

1 clause down says that the corporation's members
2 presently number more than 20,000. Members have
3 expressed the desire to participate directly in the
4 leadership of the organization. Do you see that there?

5 A. I do.

6 MR. STRAWBRIDGE: Object to the form.

7 BY MR. SCUDDER:

8 Q. I believe -- do I recall correctly that when
9 the membership was formed a year earlier, in the summer
10 of 2014, members were approximately -- I think you put
11 it in the ballpark of 20-ish?

12 A. Correct.

13 Q. Is that correct? What activity led to the
14 membership growing to 20,000 over that period of time?

15 A. So the filing of the lawsuits against UNC and
16 Harvard generated a great deal of media and ongoing
17 interest. I was invited to give talks to Asian American
18 groups throughout the country, and at one of the talks
19 to a large group of Asians in northern California, the
20 response was so overwhelming to our mission that the
21 participants at that meeting and a subsequent one in
22 southern California led to the explosive growth of our
23 membership.

24 Q. And you attribute that to the lawsuits and
25 then the talks that you gave to Asian affinity groups in

1 northern and southern California?

2 A. Yes.

3 Q. Can you describe those talks that you gave?

4 MR. STRAWBRIDGE: Again I caution the witness,
5 do not disclose the particular content, but you may
6 generally describe the topics of your discussions.

7 A. The one in northern California was a meeting
8 of the Silicon Valley Chinese Association. It was
9 attended by, I guess, about 300 people. The panel
10 included myself, one of SFFA's attorneys, and a
11 professor at Berkeley and two other individuals, and
12 part of my discussion was a request for new members and
13 within a -- at the close of that meeting, shortly
14 thereafter, the membership grew substantially over a
15 four-, five-, ten-day period. It skyrocketed.

16 BY MR. SCUDDER:

17 Q. As a result of the talk to the Silicon
18 Valley --

19 A. Chinese Association. Right. Yeah.

20 Q. Okay. And how did it come to be that you
21 spoke to that organization?

22 A. I was invited there by the president.

23 Q. Okay. Do you know why?

24 A. I'm the individual most publicly associated
25 with the lawsuits against UNC and Harvard.

1 Q. And then why don't you walk me through, again
2 respecting the instruction Mr. Strawbridge gave, the
3 southern California meeting.

4 A. That was a meeting of Chinese American
5 business and academic leaders, much smaller -- much
6 smaller group, primarily a dinner and a talk by myself
7 and one of my lawyers.

8 Q. Okay. And implicit in what you're -- both of
9 these talks, meetings, occurred after the litigation in
10 Boston against Harvard and against UNC was filed?

11 A. Correct.

12 Q. Would those two talks in northern and southern
13 California have been talks that you would have prepared
14 remarks in advance of or jotted some notes down?

15 A. Typically no. It was described that there
16 will be five people on a panel discussion, they would
17 like the panel to last about an hour with plenty of time
18 for questions and answers, so my remarks are often
19 brief. My notes are not -- I rarely provide, you know,
20 a text for a talk like that.

21 Q. Okay. And it's the filing of the litigation,
22 that activity, that you attribute the growth, 20 members
23 at incorporation, approximately 20, to 20,000 by the
24 middle of June of 2015?

25 A. It was not that leap from 20 up to 20,000. We

1 grew steadily from 20 up to, I think at the time of the
2 filing, about 45 or 50 members.

3 Q. At the time of the filing of --

4 A. Of both lawsuits.

5 Q. Yeah. They were filed on the same day, right?

6 A. Correct.

7 Q. Okay. 45 or 50 members?

8 A. Correct.

9 Q. Okay. Go ahead.

10 A. And then from the date of the filing, we grew
11 steadily to approximately, I think, 1200 or so. I think
12 that's right. And then after the -- after the
13 presentations in southern and northern California, we
14 grew from, I guess, around 12 to 1500 up to 20,000.

15 Q. Okay. Do you know as you sit here today the
16 approximate number of members of the organization?

17 A. Today?

18 Q. Yes.

19 A. 21,500 plus or minus.

20 Q. Okay. Let's take a look at page 2 of that
21 particular document, so going to Bates stamp 53, and I'm
22 looking at the resolution in the top half of the page
23 about the decision that the board made to require a
24 one-time assessment of \$10 as membership dues. Why did
25 the organization make that decision at that time?

1 A. We thought that initially we didn't want to
2 have any barriers for an individual to join our
3 organization, and once we had achieved this sort of
4 critical mass of 20,000 individuals, we felt a modest
5 lifetime \$10 membership fee was in order.

6 Q. Okay. So the \$10 is, just as it says,
7 literally a one-time assessment?

8 A. Correct.

9 Q. Can, pursuant to that resolution, an
10 individual join without paying the membership fee?

11 A. Yes.

12 Q. And how does that happen?

13 A. Joining Students for Fair Admissions typically
14 took place on our website.

15 Q. For example -- let me make it more concrete.
16 Could an individual this afternoon join the
17 organization, say I'd love to be a member, I'm without
18 the means of paying the \$10 one-time assessment, but I'd
19 like to join?

20 A. We would take that under consideration.

21 Q. And are there to your knowledge today -- I'm
22 not asking you to identify people -- are there members
23 that make up part of the approximate 21,500 that have
24 not paid the one-time assessment?

25 A. Of the 21,000?

1 Q. Yes.

2 A. Yes.

3 Q. Okay. Can you approximate the percentage?

4 A. Well, let me see if I can quantify it for you.

5 We did not assess a membership fee from inception

6 through the date or shortly after the date of these

7 amended bylaws.

8 Q. Right.

9 A. At that point we had over 20,000 members.

10 When we assessed the membership fee, then our membership

11 has continued to grow, but not anything like the numbers

12 prior to that.

13 Q. Right. So what I am taking away is that at

14 the time that the board made that decision in June of

15 2015, you had a membership in the area of

16 20,000 members. Today you have a membership in the

17 ballpark of 21,500 members, so approximately

18 1500 members have been asked to pay a one-time

19 assessment?

20 A. No. My numbers -- I think by the time we

21 instituted and were able to actually have the mechanism

22 to collect the \$10, which took some time, [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 Q. I see. You're just talking about the

1 mechanics of getting young college kids -- creating a
2 means for college kids to be able to pay or remit a \$10
3 fee when they're joining over the Internet?

4 MR. STRAWBRIDGE: Object to the form of the
5 question.

6 BY MR. SCUDDER:

7 Q. You understand what I mean?

8 A. Would you state it again?

9 Q. The members, when they pay the one-time
10 assessment, are they typically paying that by credit
11 card over the Internet?

12 A. They are. They are.

13 Q. As opposed to sending you a \$10 bill?

14 A. Yeah.

15 Q. And you have to work those mechanics out.

16 A. Correct.

17 Q. That's what you're referring to?

18 A. It took some time for us to establish, you
19 know, the mechanics of integrating into the website a
20 mechanism for taking credit cards and then having those
21 funds sent to our bank.

22 Q. Understood. Okay. So the one-time assessment
23 approved by the board in June of 2015 was then subject
24 to implementation mechanically, as you just described,
25 and it has affected [REDACTED] who have joined

1 since all those mechanics have been sorted out?

2 A. Correct.

3 Q. The bottom half of that same page, Mr. Blum,
4 talks about the adoption of a resolution that would
5 authorize the election of what's referred to as a
6 member-elected director. Do you see that?

7 A. I do.

8 Q. Okay. And for what reason were the bylaws of
9 the organization so amended?

10 A. Our growing membership had -- many individuals
11 had asked to play a greater role in the organization,
12 and the current board felt that we ought to allow, much
13 like other advocacy groups allow, a board member to be
14 selected from the membership, so that's really the
15 predicate behind introducing that.

16 Q. Okay. And has that, in fact, occurred?

17 A. Yes.

18 Q. And so as we sit here today, is there a
19 member-elected director?

20 A. Yes.

21 Q. And who is that individual?

22 A. Joe Zhou.

23 Q. Do you know when that election occurred?

24 A. Yeah. It was subsequent to -- just a few
25 months after the implementation of the revised bylaws.

1 Q. Okay. Which of these individuals have you
2 met?

3 MR. STRAWBRIDGE: Can I just clarify, Counsel?
4 Are you asking him whether you, as in him personally, or
5 in his representative capacity as SFFA?

6 BY MR. SCUDDER:

7 Q. Let's start with personally. Let me ask in
8 what capacity did you meet them?

9 A. As president of SFFA.

10 Q. Okay. So answering the questions from the
11 perspective of meeting them as --

12 A. Yes.

13 Q. -- SFFA's president.

14 A. Yes.

15 Q. Okay. Which of them did you meet?

16 A. [REDACTED]

17 Q. Okay. Do you recall approximately when? I'm
18 not going to ask you about a specific communication.

19 A. [REDACTED] would have been the late spring of
20 2014, and [REDACTED] would have been, I guess, maybe spring
21 of 2016, spring-summer of 2016.

22 Q. Okay. And what was the context generally in
23 which you met [REDACTED]

24 A. I was there to explain to the [REDACTED] the
25 nature of the lawsuit that I wanted to bring against

1 UNC, to answer their questions, and to learn a little
2 bit more about [REDACTED]

3 Q. When you say "there," in the state of North
4 Carolina meeting with the family?

5 A. Yes.

6 Q. This, of course, preceded the lawsuit being
7 filed?

8 A. Yes.

9 Q. And presumably some of that information -- let
10 me back up a second. When the complaint was filed in
11 November of 2014, do you recall preparing a declaration
12 or an affidavit in connection with the filing of the
13 complaint against UNC-Chapel Hill?

14 A. I didn't prepare that.

15 Q. Do you recall signing a declaration or
16 affidavit in connection with the complaint being filed?

17 A. Me?

18 Q. Yes, you. Yeah. Let me show you.

19 A. I -- if you have the document, I'd be happy
20 to --

21 MR. SCUDDER: We do. Let's mark -- are we up
22 to 16?

23 THE COURT REPORTER: 16.

24 (Exhibit 16 was marked for identification.)

25 BY MR. SCUDDER:

1 Q. What Defendant's Exhibit 16 is, Mr. Blum, is a
2 copy of the complaint in the lawsuit. You're welcome to
3 leaf through it. It's a copy of the filed complaint in
4 the litigation, and at the very back of that, I think
5 where we're looking here, is a declaration that you
6 submitted in connection with the filing of the lawsuit,
7 or at least I think you did. Does this refresh your
8 memory?

9 A. It does.

10 Q. And am I right that -- now, the complaint
11 refers not to a particular individual by first and last
12 name but, rather, by the more general anonymous term
13 "applicant." You're familiar with that?

14 A. Yes.

15 Q. Okay. We know from disclosures in the case
16 that have been marked highly confidential that the
17 applicant is [REDACTED] Is that your understanding as
18 well?

19 A. Yes.

20 Q. Okay. And so the information that's contained
21 in the body of the declaration is information you
22 presumably would have obtained from [REDACTED] or
23 [REDACTED]

24 A. Yes.

25 Q. And we got to that because you mentioned your

1 meeting with them before the lawsuit was filed.

2 A. Yes.

3 Q. Okay. Have you met with [REDACTED] at
4 any other time?

5 A. Yes.

6 Q. Do you remember when?

7 A. That would have been either September or
8 October of 2014. No, let me withdraw that answer. It
9 may have been the latter part of August 2014.

10 Q. And so, again, before the lawsuit was filed?

11 A. Yes.

12 Q. Okay. And generally what was the context in
13 which that meeting came to occur?

14 A. That meeting occurred in the offices of Wiley
15 Rein.

16 Q. Understood. And without revealing the content
17 of the communication, is that in connection with
18 preparing to file the litigation?

19 A. Yes.

20 Q. [REDACTED]

21 A. Yes.

22 Q. The last name listed down there. Male or
23 female?

24 A. [REDACTED]

25 Q. And you said [REDACTED] is another individual

1 that you had met with?

2 A. Yes.

3 Q. And what was the context of that meeting?

4 A. To discuss her participation in this lawsuit.

5 Q. And approximately when was that?

6 A. I think that was spring of 2016. I think
7 that's the approximate date.

8 Q. Okay. And is there any other occasion on
9 which you've met with [REDACTED]

10 A. Yes, but prior to that, but not subsequent to
11 that.

12 Q. Okay. And "prior to that," prior to the
13 spring of 2016 meeting that you just described?

14 A. Yes.

15 Q. And what was the occasion on which you came
16 together with [REDACTED] before the spring of 2016?

17 A. There was a gathering at a Washington, DC
18 organization in which [REDACTED] was in attendance.

19 Q. And what gathering was that?

20 A. You know, I think it was a get-together for
21 the outcome of a Supreme Court decision.

22 Q. Okay. Any other occasions you've met with

23 [REDACTED]

24 A. I don't think so.

25 Q. And then there's three other individuals,

1

2 A. Yes.

3 Q. Have you ever met with those individuals?

4 A. Not face-to-face.

5 Q. Have you met with them another way?

6 A. Yes.

7 Q. And how is that?

8 A. Phone call and email.

9 Q. And generally how was it that this
10 constellation or group of five individuals came to be
11 standing members in the litigation?

12 A. They agreed to submit a declaration stating
13 that they were denied admission to UNC and wanted to
14 participate in this lawsuit.

15 Q. Okay. And before that occurred, did you
16 extend an invitation to them to join a lawsuit?

17 MR. STRAWBRIDGE: That seems to require the
18 content of particular communications. If you want to
19 ask about the nature of the contact that was initiated
20 that's been disclosed, I think that's appropriate, but I
21 think talking about who sent what to whom, I feel like
22 that's getting into our agreement and privilege.

23 BY MR. SCUDDER:

24 Q. Each of those individuals have agreed to be
25 standing members in communications that you've had with

1 them?

2 A. Yes.

3 Q. And each of those individuals have prepared
4 either affidavits or declarations with the kind of
5 information that you described a minute ago in them,
6 correct?

7 A. Yes.

8 Q. At one point in time in this litigation, and
9 we can -- there were some disclosures that preceded this
10 one in the case, as you'd expect. There was a [REDACTED]
11 named [REDACTED] who was designated as a standing
12 member. Do you recognize that name?

13 A. Yes.

14 Q. And is [REDACTED] an individual that you've
15 met with?

16 A. Not face-to-face.

17 Q. By either telephone or email?

18 A. Yes.

19 Q. And [REDACTED] is no longer a standing member, correct?

20 A. Correct.

21 Q. Do you know why that is?

22 MR. STRAWBRIDGE: I think I'm going to
23 interpose an objection and an instruction here. I
24 don't -- I think our agreement permits inquiry, and I
25 think the only relevant inquiry in this case is to